

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to refugee services program

The Human Services Department hereby amends Chapter 61, “Refugee Services Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

Chapter 61 was reviewed as part of the Department’s five-year rules review. The Department manages and coordinates the refugee program activities within the state. This chapter is updated to be in compliance with the Code of Federal Regulations Title 45: Public Welfare, Parts 400 [Refugee Resettlement Program] and 401 [Cuban/Haitian Entrant Program].

This rule making updates the definition of “refugee” to match the definition in federal regulations. References to the United States Immigration and Naturalization Service are revised to reflect the current name of the agency, which is the United States Citizenship and Immigration Service. References to the bureau name for the United States Department of State’s Bureau of Refugee Programs are also updated to Bureau of Population, Refugees, and Migration to reflect the current name.

Services that are specifically designed to assist refugees with obtaining employment and improving the employability of work skills of the individual are revised to match federal regulations and clarify services that are available. The time frame in which services may be provided to newly arriving refugees is increased to five years after arrival in the United States to reflect the Department’s current process.

Requirements regarding refugee sponsors, adverse actions regarding sponsor applications and administrative review of denial of sponsorship applications are removed because this process no longer exists. This rule making clarifies that the Director of the Office of Refugee Resettlement is the individual who determines the number of unaccompanied minors to be resettled in Iowa pursuant to federal regulations. The process regarding providing interpreters and translators for legal proceedings is also removed to reflect current practices. The court systems have a process in place to obtain an interpreter or translator when requested for legal proceedings, as described in Iowa Code chapter 622A. Information relating to a pilot program regarding recredentialing services is removed because the pilot project ended in September 2003, and references to the Iowa Refugee Services Foundation are removed because it is not currently active.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as **ARC 6512C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 10, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on February 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **441—Chapter 61**, preamble, as follows:

PREAMBLE

The department of human services sets the strategic vision for, manages and coordinates refugee program activities in the state of Iowa. In this capacity, the department develops, implements, and oversees activities which reflect refugee policy priorities of the United States Department of State and the United States Department of Health and Human Services and which address sound practices on behalf of the state of Iowa as outlined in the Iowa state refugee program plan. ~~Serving in the role of~~ The Iowa state refugee program coordinator, ~~the director~~ coordinates with resettlement agency administrators active in the resettlement of refugees within the state of Iowa. Although the department manages many activities and programs in the administration of the state of Iowa's refugee program, the central focus is to promote as expeditiously as possible economic self-sufficiency and social self-reliance for refugees.

These rules define and structure the department's refugee services program. Eligibility criteria, application procedures, reasons for adverse actions, and appeal procedures for clients and sponsors are outlined.

ITEM 2. Adopt the following **new** definitions of "Cash assistance" and "Individual employability plan" in rule **441—61.1(217)**:

"*Cash assistance*" means financial assistance to refugees, including Temporary Assistance for Needy Families (TANF), supplemental security income (SSI), refugee cash assistance and general assistance as defined in 42 CFR 400.2 as amended to June 7, 2022.

"*Individual employability plan*" means a written plan outlining an individual's vocational goal and the services to be provided to reach the goal.

ITEM 3. Rescind the definitions of "Legal proceeding," "Portal-to-portal" and "Presiding judicial officer" in rule **441—61.1(217)**.

ITEM 4. Amend rule **441—61.1(217)**, definitions of "Refugee" and "Resettlement agency," as follows:

"*Refugee*" means any person who:

1. Is outside any country of the person's nationality or, in the case of a person having no nationality, is outside any country in which the person last habitually resided; and

2. Is unable or unwilling to return to that country and unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, as defined under the Immigration and Nationality Act, Title I, Section 101.

In special circumstances, the President of the United States may specify any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion as a refugee.

The term "refugee" does not include any person who ordered, incited, assisted or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group or political opinion.

"Resettlement agency" means any business, organization or group of related persons having a current contract with the U.S. United States Department of State's Bureau for Refugee Programs of Population, Refugees, and Migration for the resettlement of refugees within the United States of America.

ITEM 5. Amend rule 441—61.2(217) as follows:

441—61.2(217) Authority. The department has been given authority to administer the refugee program by Executive Order Number 21, signed by the governor December 24, 1985. ~~U.S. United States~~ Department of State and ~~U.S. United States~~ Department of Health and Human Services rules govern various program operations.

ITEM 6. Amend rule 441—61.3(217) as follows:

441—61.3(217) Eligibility for refugee services. Refugees eligible for services under this chapter include people who have one of the following statuses, as issued by the United States Citizenship and Immigration and Naturalization Service:

61.3(1) to 61.3(3) No change.

61.3(4) A Cuban or Haitian entrant in accordance with requirements in 45 CFR Part 401, as amended to ~~March 22, 2000~~ June 7, 2022. Cuban and Haitian entrants include:

a. No change.

b. Any other national of Cuba or Haiti who meets both of the following conditions:

(1) The person either:

1. and 2. No change.

3. Has an application for asylum pending with the United States Citizenship and Immigration and Naturalization Service.

(2) No change.

61.3(5) to 61.3(7) No change.

ITEM 7. Amend subrule 61.5(4) as follows:

61.5(4) Resettlement services. These services involve securing and training sponsors, arranging for refugees to resettle in Iowa and providing case management, employment services, and social adjustment services.

As required under the resettlement contract with the ~~U.S. United States~~ Department of State, the department provides case management, employment services, and social adjustment services to the refugees it resettles during their first 90 days in Iowa.

ITEM 8. Rescind and reserve subrules **61.5(6)** and **61.5(7)**.

ITEM 9. Amend paragraph **61.5(11)“a”** as follows:

a. Employment services which include such activities as the development of a family self-sufficiency plan, individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and follow-up.

ITEM 10. Amend paragraphs **61.5(11)“e”** to **“g”** as follows:

e. Vocational training which includes referrals to driver education and training when provided as part of ~~a family self-sufficiency~~ an individual employability plan.

f. Skills recertification which includes referrals to training that meets the criteria for appropriate training ~~as provided for in paragraph “b.”~~. If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice the individual’s profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training:

(1) Is approved as part of the individual’s employability plan by the state agency, or its designee;

(2) Does not exceed one year’s duration (including any time enrolled in such program in the United States prior to the refugee’s application for assistance);

(3) Is specifically intended to assist the professional in becoming relicensed in the professional’s profession; and

(4) If completed, can realistically be expected to result in such relicensing. This training may only be made available to individuals who are employed.

g. ~~Day~~ Child care which includes referrals to ~~day~~ child care for children necessary for participation in an employability service or for the acceptance or retention of employment.

ITEM 11. Adopt the following **new** paragraph **61.5(11)“i”**:

i. Referral to the Iowa department of workforce development for provision of any or all of the above services.

ITEM 12. Amend subrule 61.6(1) as follows:

61.6(1) *Priority of services.* Services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

~~*a.* All newly arriving refugees during their first year in the United States, who apply for services.~~

~~*b.*~~ *a.* Refugees who are receiving cash assistance.

~~*c.*~~ *b.* Unemployed refugees who are not receiving cash assistance.

~~*d.*~~ *c.* Employed refugees in need of services to retain employment or to attain economic independence.

d. All newly arriving refugees in the United States who apply for services during the five-year period from their date of arrival.

ITEM 13. Amend subrule 61.6(2) as follows:

61.6(2) *Limitations on eligibility.* Services as described in rule 441—61.5(217) may be provided in the first 60 months of resettlement unless the Office of Refugee Resettlement grants an exception to the 60-month limit. Referral, interpretation, citizenship, and naturalization services may be provided to the extent feasible past 60 months of resettlement for refugees, except that refugees who are receiving employability services, as defined in 441—subrule 61.5(11), as part of an employability plan, as of September 30, 1995, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the United States, pursuant to 45 CFR 400.315(b) as amended to June 7, 2022. In any case, services shall first be provided for those refugees who are in the first two years of resettlement and who are in need of assistance in securing self-sufficiency.

ITEM 14. Amend paragraph **61.6(3)“c”** as follows:

c. Services shall be provided, to the maximum extent feasible, in a manner that includes the use of bilingual or bicultural women on service agency staffs to ensure adequate service access by refugee women.

ITEM 15. Adopt the following new paragraphs **61.6(3)“h”** and **“i”**:

h. In order to avoid interference with refugee employment, English language instruction and vocational training must be provided to the fullest extent feasible outside normal working hours.

i. English language instruction must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

ITEM 16. Amend paragraphs **61.8(1)“e”** and **“f”** as follows:

e. The service for which the client is eligible is currently not available. ~~A list of these services will be posted in the bureau’s offices.~~

f. Funding is not available to provide the service. ~~A list of services not available due to lack of funding shall be posted in the bureau offices.~~

ITEM 17. Amend paragraph **61.8(2)“b”** as follows:

b. After repeated assessment, it is evident that the family or individual is unable to achieve or maintain goals set forth in the family self-sufficiency or individual employability plan.

ITEM 18. Amend paragraph **61.8(2)“f”** as follows:

f. Funding is not available to provide the service. ~~A list of services not available due to lack of funding shall be posted in the bureau’s offices.~~

ITEM 19. Amend subrule 61.8(4) as follows:

61.8(4) Notice of adverse action. In case of an action to terminate, reduce, or deny services, the bureau department shall give timely or adequate notice to the person or persons affected pursuant to 441—Chapter 16.

ITEM 20. Rescind and reserve rules **441—61.10(217)** to **441—61.12(217)**.

ITEM 21. Amend rule 441—61.13(217) as follows:

441—61.13(217) Refugee resettlement moneys. The department receives a certain amount of money from the U.S. United States Department of State for each refugee it resettles. A portion of that money is made available to the refugee sponsor for financial assistance in resettling the refugee unit. All of the moneys must be spent in accordance with financial requirements and approved expenditures of the department, U.S. United States Department of State, and the state of Iowa comptroller and must go toward the benefit of the refugee unit. ~~The sponsor must sign Form 402-0025, Receipt Letter, to document the receipt of all refugee resettlement funds. The refugee sponsor must not financially benefit in any way from the refugee resettlement moneys.~~

ITEM 22. Amend rule 441—61.14(217) as follows:

441—61.14(217) Unaccompanied refugee minors program. The department administers the unaccompanied refugee minors program under rules covered in 441—Chapters 156, 202, 112, 113, 114, 115, and 116 and by federal guidelines provided by the U.S. United States Department of Health and Human Services. In consultation with other resettlement agencies, the director of the Office of Refugee Resettlement determines the number of unaccompanied minors to be resettled in Iowa pursuant to 45 CFR 400.11(b)(1) as amended to June 7, 2022. Resettlement agencies may not bring unaccompanied minors into Iowa without the authorization of the director.

ITEM 23. Rescind and reserve rules **441—61.15(217,622A)** and **441—61.16(217)**.

ITEM 24. Amend rule 441—61.17(217), introductory paragraph, as follows:

441—61.17(217) Targeted assistance grants. “Targeted assistance grants” means U.S. United States Department of Health and Human Services formula allocation funding granted to the department for assistance to counties where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

ITEM 25. Rescind and reserve rule **441—61.18(217)**.

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